



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
--------------------	-------------	-----------------------	------------------

09/303,716 04/30/99 POWELL

M EXAMINER 039021-0040

021675 HM12/0203  
BARRY EVANS  
WHITMAN BREED ABBOTT AND MORGAN  
200 PARK AVENUE  
NEW YORK NY 10166

ART UNIT	PAPER NUMBER
FATTERSON, C	

DATE MAILED 52

02/03/00

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- ☒ Claim(s) 26-34, 36, 37, 39, 40, 42, 43, 45, 46, 48 & 49 are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
☐ Claim(s) \_\_\_\_\_ is/are allowed.  
☐ Claim(s) \_\_\_\_\_ is/are rejected.  
☐ Claim(s) \_\_\_\_\_ is/are objected to.  
☒ Claim(s) 26-34, 36, 37, 39, 40, 42, 43, 45, 46, 48 & 49 are subject to restriction or election requirement.

#### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.  
☐ The specification is objected to by the Examiner.  
☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.  
☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- ☐ Notice of Reference Cited, PTO-892  
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
☐ Interview Summary, PTO-413  
☐ Notice of Draftsperson's Patent Drawing Review, PTO-948  
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 26-32, drawn to a boron containing hapten and immunogen, classified in Class 530, subclass 323.

II. Claims 33 and 34, drawn to a phosphorus containing hapten, classified in Class 530, subclass 323.

III. Claims 36, 39, 42, 45 and 48, drawn to catalytic antibody to the hapten of claim 26, a method of making and a method of use, classified in Class 435, subclass 188.5.

IV. Claims 37, 40, 43, 46 and 49, drawn to catalytic antibody to the hapten of claim 33, a method of making and a method of use, classified in Class 435, subclass 188.5.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are mutually exclusive products. Inventions III and IV are mutually exclusive products and processes.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, as shown by their different classification, restriction for examination purposes as indicated is proper.

Claims 26-32, 36, 39, 42, 45 and 48 are generic to a plurality of disclosed patentably distinct species comprising the indicated species of  $R_1$ ,  $R_2$ , X, Y, V and Z. Claims 33, 34, 37, 40, 43, 46 and 49 are generic to a plurality of disclosed patentably distinct species comprising the indicated species of  $R_1$ ,  $R_2$ , X, Y and Z. Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

A telephone call was made to Ms Pamela C. Ancona on January 31, 2000 to request an oral election to the above restriction requirement, but did not result in an election being made.


Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles L. Patterson, Jr., Ph.D. whose telephone number is (703) 308-1834. The examiner can normally be reached on any day of the week from 7:30 AM until 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy, can be reached on (703) 308-3804. The fax phone number for this Group is (703) 305-7401.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Patterson  
January 31, 2000

  
**CHARLES L. PATTERSON, JR.**  
**PRIMARY EXAMINER**  
**GROUP 1800**